



Testimony

765 Asylum Avenue, First Floor
Hartford, CT 06105
860-523-9146
www.acluct.org

Written Testimony Opposing Recommendations of the Special Committee on Sex Offenders and Supporting a Proposed Constitutional Amendment on Pretrial Release and Detention and Proposals of the Advisory Group on Collateral Consequences of Criminal Conviction

Judge Devlin and distinguished members of the Sentencing Commission:

My name is David McGuire, and I am the Executive Director of the American Civil Liberties Union of Connecticut (ACLU-CT). I am submitting this testimony regarding the recommendations to reform the Sex Offender Registry by the Special Committee on Sex Offenders, the proposed constitutional amendment on pretrial release and detention, and three proposals from the Advisory Group on Collateral Consequences of Criminal Conviction.

As an organization that defends, promotes, and preserves individual rights and liberties under the U.S. and Connecticut constitutions, the ACLU-CT encourages recommendations from the Commission that make the criminal justice system more fair and just. The ACLU-CT appreciates the great work of the Sentencing Commission and this opportunity to submit testimony regarding its proposals.

Proposed Recommendations on the Registry, Management and Sentencing of Sex Offenders: *Oppose*

As a member of the Special Committee on Sex Offenders, I believe the Commission's proposed reforms to the sex offender registry will make the registry more effective and fair. Many of the proposals will increase public safety and create more fairness by establishing a non-public registry and allowing offenders to petition off the registries. The proposal will have a positive impact on the ability of offenders to reintegrate into society and find stable living conditions, which is directly related to rates of recidivism and the public's safety.

However, this proposal would deny thousands of registrants the ability to petition off of the registries due to the date of their conviction. This inequity will make the state vulnerable to equal protection challenges. Due to this serious flaw, ACLU-CT cannot support the proposal in its current form.

Constitutional Amendment on Pretrial Release and Detention: *Support*

The ACLU-CT is supportive of future pretrial release reforms. Creating a system where defendants are not detained for lack of funds is consistent with the constitution's promise of equal protection, due process, and freedom from excessive bail. Bail should be based on a

person's flight risk or danger to society, not on the money in his or her pocket. Those charged with a crime are supposed to be treated as innocent until proven guilty, yet many people remain in jail because they lack the resources to pay their way free.

The Commission's February 2017 report on pretrial release and detention stated that "studies have found that, for individuals assessed as low or moderate risk, short-term pretrial detention is associated with an increased risk of re-arrest and failure to appear." Denying the detention of defendants simply due to their lack of financial assets to secure a bail bond is an important measure to ensure the rights of Connecticut residents who have not been proven guilty of a crime.

Adoption and Safe Families Act (ASFA) of 1997: *Support*

The ACLU-CT supports efforts to protect the rights of incarcerated parents. The proposal will ensure that an incarcerated individual's parental rights are not terminated due to circumstances outside of their control. A parent should not lose their rights to participate in the upbringing of their child(ren) at the prison gate, and courts should take into consideration an incarcerated parent's ability to participate in the life of their child(ren) and in programming when determining whether to terminate parental rights. It is vital that parents be afforded the right to participate in child welfare case hearings, whether or not they are incarcerated. Protecting an incarcerated parent's ability to participate in such hearings by allowing the use of phone or video is an imperative step in allowing them to defend their parental rights. Incarcerated parents should not have their rights to parent and build relationships with their children taken away from them simply because of the fact that they are incarcerated, and these proposals will help prevent that unjust outcome.

An Act Concerning Misdemeanor Sentences: *Support*

The ACLU-CT supports the proposal to reduce the maximum sentence for misdemeanor offenses by one day in an effort to protect immigrants from unnecessary ICE involvement. People convicted of minor offenses should not face disproportionately severe outcomes simply because they are imprisoned for 365 days, rather than 364 days. Noncitizens convicted of a single small offense should not face detention and deportation from the country they call home. Though this proposal will substantially alleviate the threat of ICE detention and deportation in certain situations, we as a state must continue to work to protect the rights of immigrants in Connecticut.

Automatic Erasure of Record for Certain Offenses: *Support*

The ACLU-CT supports the intent of both proposals regarding the automatic erasure of records for certain offenses. Allowing the erasure of a misdemeanor conviction of a person who has not been convicted in the five years subsequent will enable that person to avoid the harms associated with having a criminal record. The proposal means that such a criminal conviction will not automatically result in a lifetime of discrimination, poverty, and inhumane treatment. People who have made mistakes should have the opportunity to reintegrate into society instead of being continually judged and punished for the rest of their lives. The presence of a misdemeanor conviction on a criminal record often means the difference between having stable housing and a job and struggling to find housing and employment.

Erasing criminal records of individuals convicted when they were 16 or 17 years old prior to the passage of the 2007 Raise the Age legislation ensures that they will be afforded the same benefits now given to those convicted at the same age. Those convicted prior to the passage of the legislation should not be denied the benefit of having their criminal records erased simply because of the date of their convictions. Young people who make mistakes deserve a second chance to succeed. We support both of these proposals because they will help Connecticut truly uphold the justice and equality promised by our constitution.

Thank you for your attention and work on these important issues.